IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 36652 of 2004(L)

OS.568/2002 of PRL.M.C.,NEYYATTINKARA

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PETITIONER:

BENZIGAR, S/O. MUTHUSWAMI NADAR,
RESIDING AT ANNA NIVAS, KULATHOOR, KARODU VILLAGE,
NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.

RESPONDENTS:

1.THE STATE OF KERALA,
REPRESENTED BY ITS DISTRICT COLLECTOR,
COLLECTORATE, VANCHIYOOR, THIRUVANANTHAPURAM.

2.THE TAHSILDAR (R.R),
TALUK OFFICE, NEYYATTINKARA.

3.THE VILLAGE OFFICER,
VILLAGE OFFICE, VIZHINJAM.

BY GOVERNMENT PLEADER MR.SHYSON P.MANGUZHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 36652/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE AFFIDAVIT DATED 22.3.2004 SUBMITTED BY THE 2ND RESPONDENT.

EXT.P2: TRUE COPY OF I.A.2087/04 IN O.S.NO.568/02.

EXT.P3: TRUE COPY OF THE ORDER DATED 30.6.04 IN I.A.2087/04 IN O.S.NO.568/02.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.36652 of 2004

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Dated: 30th May, 2007

JUDGMENT

Ext.P3 order passed by the learned Munsiff on an application for service of five interrogatories to be answered by the defendants is under challenge. The first two interrogatories were answered. Regarding the next three interrogatories the defence was that those are questions which can be answered only by the officers of the Sales Tax and the Excise Departments.

2. Mr.V.Manu, counsel for the petitioner submits that the 2nd respondent who was the first respondent in the I.A. was the State of Kerala under which only the authorities of the Salex Tax and the Excise Department function. It was open to the District Collector who represented the State to collect the requisite information from those authorities and answer the interrogatories.

3. Technically Mr.Manu may be right, but the pragmatic difficulties of the District Collector in seeking information from other departments should not be loss sight of. Ext.P3 is justified on account of those pragmatic difficulties. I do not propose to interfere with Ext.P3 in the visitorial jurisdiction under Article 227 of the Constitution. But even as I confirm Ext.P3, I permit the petitioner to

seek impleadment of the concerned departments as proforma parties in the suit. If application in that regard is filed by the petitioner within three weeks of receiving copy of this judgment, the learned Munsiff will allow that application. Once the application is allowed and the departmental authorities are made defendants in the suit, the petitioner will have the permission to serve the three unanswered interrogatories on the additional respondents. Considering the above directions, the order of stay presently passed will continue for a period of four more months from today.

The Writ Petition is disposed of subject to the above directions. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**